

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 514**

Introduced by Fulton, 29; Avery, 28; Erdman, 47; Friend, 10;  
Lathrop, 12; Pahls, 31

Read first time January 17, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-3806, Reissue Revised Statutes of Nebraska, and  
3 sections 77-908, 77-2701, 77-2715.07, 77-2717, and  
4 77-2734.03, Revised Statutes Cumulative Supplement,  
5 2006; to provide an income tax credit for employer  
6 contributions to employee long-term care insurance; to  
7 harmonize provisions; to provide an operative date; and  
8 to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-908, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-908 Every insurance company organized under the stock,  
4 mutual, assessment, or reciprocal plan, except fraternal benefit  
5 societies, which is transacting business in this state shall, on  
6 or before March 1 of each year, pay a tax to the director of one  
7 percent of the gross amount of direct writing premiums received by  
8 it during the preceding calendar year for business done in this  
9 state, except that (1) for group sickness and accident insurance  
10 the rate of such tax shall be five-tenths of one percent, (2) for  
11 property and casualty insurance, excluding individual sickness and  
12 accident insurance, the rate of such tax shall be one percent, and  
13 (3) for capitation payments made in accordance with the Medical  
14 Assistance Act, the rate of tax shall be five percent. The taxable  
15 premiums shall include premiums paid on the lives of persons  
16 residing in this state and premiums paid for risks located in  
17 this state whether the insurance was written in this state or not,  
18 including that portion of a group premium paid which represents the  
19 premium for insurance on Nebraska residents or risks located in  
20 Nebraska included within the group when the number of lives in the  
21 group exceeds five hundred. The tax shall also apply to premiums  
22 received by domestic companies for insurance written on individuals  
23 residing outside this state or risks located outside this state if  
24 no comparable tax is paid by the direct writing domestic company  
25 to any other appropriate taxing authority. Companies whose scheme

1 of operation contemplates the return of a portion of premiums  
2 to policyholders, without such policyholders being claimants under  
3 the terms of their policies, may deduct such return premiums  
4 or dividends from their gross premiums for the purpose of tax  
5 calculations. Any such insurance company shall receive a credit on  
6 the tax imposed as provided in the Community Development Assistance  
7 Act, and section 77-27,222, and section 3 of this act.

8           Sec. 2. Section 77-2701, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and  
11 77-27,228 to 77-27,235 and section 3 of this act shall be known and  
12 may be cited as the Nebraska Revenue Act of 1967.

13           Sec. 3. An employer shall be allowed a nonrefundable  
14 credit against the individual income tax, corporate income tax,  
15 premium or related retaliatory tax, or franchise tax equal to  
16 twenty percent of the net contributions made by the employer to  
17 an employee long-term care insurance plan if the contributions  
18 qualify as a business expense for federal income tax purposes.  
19 Net contribution means the contribution reduced by any federal tax  
20 benefit resulting from treatment of the contribution as a business  
21 expense. The credit may be carried forward for three years.

22           Sec. 4. Section 77-2715.07, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24           77-2715.07 (1) There shall be allowed to qualified  
25 resident individuals as a nonrefundable credit against the income

1 tax imposed by the Nebraska Revenue Act of 1967:

2 (a) A credit equal to the federal credit allowed under  
3 section 22 of the Internal Revenue Code; and

4 (b) A credit for taxes paid to another state as provided  
5 in section 77-2730.

6 (2) There shall be allowed to qualified resident  
7 individuals against the income tax imposed by the Nebraska Revenue  
8 Act of 1967:

9 (a) For returns filed reporting federal adjusted  
10 gross incomes of greater than twenty-nine thousand dollars, a  
11 nonrefundable credit equal to twenty-five percent of the federal  
12 credit allowed under section 21 of the Internal Revenue Code of  
13 1986, as amended;

14 (b) For returns filed reporting federal adjusted gross  
15 income of twenty-nine thousand dollars or less, a refundable credit  
16 equal to a percentage of the federal credit allowable under section  
17 21 of the Internal Revenue Code of 1986, as amended, whether or  
18 not the federal credit was limited by the federal tax liability.  
19 The percentage of the federal credit shall be one hundred percent  
20 for incomes not greater than twenty-two thousand dollars, and  
21 the percentage shall be reduced by ten percent for each one  
22 thousand dollars, or fraction thereof, by which the reported  
23 federal adjusted gross income exceeds twenty-two thousand dollars;

24 (c) A refundable credit for individuals who qualify for  
25 an income tax credit as an owner of agricultural assets under the

1 Beginning Farmer Tax Credit Act for all taxable years beginning or  
2 deemed to begin on or after January 1, 2001, under the Internal  
3 Revenue Code of 1986, as amended; and a refundable credit as  
4 provided in section 77-5209.01 for individuals who qualify for an  
5 income tax credit as a qualified beginning farmer or livestock  
6 producer under the Beginning Farmer Tax Credit Act for all taxable  
7 years beginning or deemed to begin on or after January 1, 2006,  
8 under the Internal Revenue Code of 1986, as amended;

9 (d) A refundable credit for individuals who qualify for  
10 an income tax credit under the Nebraska Advantage Microenterprise  
11 Tax Credit Act or the Nebraska Advantage Research and Development  
12 Act; and

13 (e) A refundable credit equal to eight percent of the  
14 federal credit allowed under section 32 of the Internal Revenue  
15 Code of 1986, as amended.

16 (3) There shall be allowed to all individuals as a  
17 nonrefundable credit against the income tax imposed by the Nebraska  
18 Revenue Act of 1967:

19 (a) A credit for personal exemptions allowed under  
20 section 77-2716.01; and

21 (b) A credit for contributions to certified community  
22 betterment programs as provided in the Community Development  
23 Assistance Act. Each partner, each shareholder of an electing  
24 subchapter S corporation, each beneficiary of an estate or trust,  
25 or each member of a limited liability company shall report his or

1 her share of the credit in the same manner and proportion as he  
2 or she reports the partnership, subchapter S corporation, estate,  
3 trust, or limited liability company income.

4 (4) There shall be allowed as a credit against the income  
5 tax imposed by the Nebraska Revenue Act of 1967:

6 (a) A credit to all resident estates and trusts for taxes  
7 paid to another state as provided in section 77-2730; and

8 (b) A credit to all estates and trusts for contributions  
9 to certified community betterment programs as provided in the  
10 Community Development Assistance Act.

11 (5) There shall be allowed to all business firms as a  
12 credit against the income tax imposed by the Nebraska Revenue Act  
13 of 1967 a credit as provided in section 77-27,222.

14 (6) There shall be allowed to employers as a  
15 nonrefundable credit against the income tax imposed by the Nebraska  
16 Revenue Act of 1967 a credit as provided in section 3 of this act.

17 Sec. 5. Section 77-2717, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 77-2717 (1)(a) The tax imposed on all resident estates  
20 and trusts shall be a percentage of the federal taxable income  
21 of such estates and trusts as modified in section 77-2716, plus  
22 a percentage of the federal alternative minimum tax and the  
23 federal tax on premature or lump-sum distributions from qualified  
24 retirement plans. The additional taxes shall be recomputed by (i)  
25 substituting Nebraska taxable income for federal taxable income,

1 (ii) calculating what the federal alternative minimum tax would  
2 be on Nebraska taxable income and adjusting such calculations for  
3 any items which are reflected differently in the determination  
4 of federal taxable income, and (iii) applying Nebraska rates to  
5 the result. The federal credit for prior year minimum tax, after  
6 the recomputations required by the Nebraska Revenue Act of 1967,  
7 and the credits provided in the Nebraska Advantage Microenterprise  
8 Tax Credit Act, the Nebraska Advantage Research and Development  
9 Act, ~~and~~ section 77-27,222, and section 3 of this act shall be  
10 allowed as a reduction in the income tax due. A refundable income  
11 tax credit shall be allowed for all resident estates and trusts  
12 under the Nebraska Advantage Microenterprise Tax Credit Act and the  
13 Nebraska Advantage Research and Development Act.

14 (b) The tax imposed on all nonresident estates and trusts  
15 shall be the portion of the tax imposed on resident estates and  
16 trusts which is attributable to the income derived from sources  
17 within this state. The tax which is attributable to income derived  
18 from sources within this state shall be determined by multiplying  
19 the liability to this state for a resident estate or trust with  
20 the same total income by a fraction, the numerator of which is  
21 the nonresident estate's or trust's Nebraska income as determined  
22 by sections 77-2724 and 77-2725 and the denominator of which is  
23 its total federal income after first adjusting each by the amounts  
24 provided in section 77-2716. The federal credit for prior year  
25 minimum tax, after the recomputations required by the Nebraska

1 Revenue Act of 1967, reduced by the percentage of the total income  
2 which is attributable to income from sources outside this state,  
3 and the credits provided in the Nebraska Advantage Microenterprise  
4 Tax Credit Act, the Nebraska Advantage Research and Development  
5 Act, ~~and~~ section 77-27,222, and section 3 of this act shall be  
6 allowed as a reduction in the income tax due. A refundable income  
7 tax credit shall be allowed for all nonresident estates and trusts  
8 under the Nebraska Advantage Microenterprise Tax Credit Act and the  
9 Nebraska Advantage Research and Development Act.

10 (2) In all instances wherein a fiduciary income tax  
11 return is required under the provisions of the Internal Revenue  
12 Code, a Nebraska fiduciary return shall be filed, except that a  
13 fiduciary return shall not be required to be filed regarding a  
14 simple trust if all of the trust's beneficiaries are residents of  
15 the State of Nebraska, all of the trust's income is derived from  
16 sources in this state, and the trust has no federal tax liability.  
17 The fiduciary shall be responsible for making the return for the  
18 estate or trust for which he or she acts, whether the income be  
19 taxable to the estate or trust or to the beneficiaries thereof.  
20 The fiduciary shall include in the return a statement of each  
21 beneficiary's distributive share of net income when such income is  
22 taxable to such beneficiaries.

23 (3) The beneficiaries of such estate or trust who are  
24 residents of this state shall include in their income their  
25 proportionate share of such estate's or trust's federal income and

1 shall reduce their Nebraska tax liability by their proportionate  
2 share of the credits as provided in the Nebraska Advantage  
3 Microenterprise Tax Credit Act, the Nebraska Advantage Research  
4 and Development Act, ~~and section 77-27,222,~~ and section 3 of this  
5 act. There shall be allowed to a beneficiary a refundable income  
6 tax credit under the Beginning Farmer Tax Credit Act for all  
7 taxable years beginning or deemed to begin on or after January 1,  
8 2001, under the Internal Revenue Code of 1986, as amended.

9 (4) If any beneficiary of such estate or trust is a  
10 nonresident during any part of the estate's or trust's taxable  
11 year, he or she shall file a Nebraska income tax return which  
12 shall include (a) in Nebraska adjusted gross income that portion  
13 of the estate's or trust's Nebraska income, as determined under  
14 sections 77-2724 and 77-2725, allocable to his or her interest  
15 in the estate or trust and (b) a reduction of the Nebraska tax  
16 liability by his or her proportionate share of the credits as  
17 provided in the Nebraska Advantage Microenterprise Tax Credit Act,  
18 the Nebraska Advantage Research and Development Act, ~~and section~~  
19 77-27,222, and section 3 of this act and shall execute and forward  
20 to the fiduciary, on or before the original due date of the  
21 Nebraska fiduciary return, an agreement which states that he or she  
22 will file a Nebraska income tax return and pay income tax on all  
23 income derived from or connected with sources in this state, and  
24 such agreement shall be attached to the Nebraska fiduciary return  
25 for such taxable year.

1           (5) In the absence of the nonresident beneficiary's  
2           executed agreement being attached to the Nebraska fiduciary return,  
3           the estate or trust shall remit a portion of such beneficiary's  
4           income which was derived from or attributable to Nebraska sources  
5           with its Nebraska return for the taxable year. The amount of  
6           remittance, in such instance, shall be the highest individual  
7           income tax rate determined under section 77-2715.02 multiplied by  
8           the nonresident beneficiary's share of the estate or trust income  
9           which was derived from or attributable to sources within this  
10          state. The amount remitted shall be allowed as a credit against the  
11          Nebraska income tax liability of the beneficiary.

12          (6) The Tax Commissioner may allow a nonresident  
13          beneficiary to not file a Nebraska income tax return if the  
14          nonresident beneficiary's only source of Nebraska income was his or  
15          her share of the estate's or trust's income which was derived from  
16          or attributable to sources within this state, the nonresident did  
17          not file an agreement to file a Nebraska income tax return, and  
18          the estate or trust has remitted the amount required by subsection  
19          (5) of this section on behalf of such nonresident beneficiary. The  
20          amount remitted shall be retained in satisfaction of the Nebraska  
21          income tax liability of the nonresident beneficiary.

22          (7) For purposes of this section, unless the context  
23          otherwise requires, simple trust shall mean any trust instrument  
24          which (a) requires that all income shall be distributed currently  
25          to the beneficiaries, (b) does not allow amounts to be paid,

1 permanently set aside, or used in the tax year for charitable  
2 purposes, and (c) does not distribute amounts allocated in the  
3 corpus of the trust. Any trust which does not qualify as a simple  
4 trust shall be deemed a complex trust.

5           Sec. 6. Section 77-2734.03, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7           77-2734.03 (1)(a) For taxable years commencing prior to  
8 January 1, 1997, any (i) insurer paying a tax on premiums and  
9 assessments pursuant to section 77-908 or 81-523, (ii) electric  
10 cooperative organized under the Joint Public Power Authority Act,  
11 or (iii) credit union shall be credited, in the computation of  
12 the tax due under the Nebraska Revenue Act of 1967, with the  
13 amount paid during the taxable year as taxes on such premiums and  
14 assessments and taxes in lieu of intangible tax.

15           (b) For taxable years commencing on or after January 1,  
16 1997, any insurer paying a tax on premiums and assessments pursuant  
17 to section 77-908 or 81-523, any electric cooperative organized  
18 under the Joint Public Power Authority Act, or any credit union  
19 shall be credited, in the computation of the tax due under the  
20 Nebraska Revenue Act of 1967, with the amount paid during the  
21 taxable year as (i) taxes on such premiums and assessments included  
22 as Nebraska premiums and assessments under section 77-2734.05 and  
23 (ii) taxes in lieu of intangible tax.

24           (c) For taxable years commencing or deemed to commence  
25 prior to, on, or after January 1, 1998, any insurer paying a tax on

1 premiums and assessments pursuant to section 77-908 or 81-523 shall  
2 be credited, in the computation of the tax due under the Nebraska  
3 Revenue Act of 1967, with the amount paid during the taxable year  
4 as assessments allowed as an offset against premium and related  
5 retaliatory tax liability pursuant to section 44-4233.

6 (2) There shall be allowed to corporate taxpayers a  
7 tax credit for contributions to community betterment programs as  
8 provided in the Community Development Assistance Act.

9 (3) There shall be allowed to corporate taxpayers a  
10 refundable income tax credit under the Beginning Farmer Tax Credit  
11 Act for all taxable years beginning or deemed to begin on or  
12 after January 1, 2001, under the Internal Revenue Code of 1986, as  
13 amended.

14 (4) There shall be allowed to corporate taxpayers a tax  
15 credit as provided in section 77-27,222 and section 3 of this act.

16 (5) The changes made to this section by Laws 2004, LB  
17 983, apply to motor fuels purchased during any tax year ending  
18 or deemed to end on or after January 1, 2005, under the Internal  
19 Revenue Code of 1986, as amended.

20 (6) There shall be allowed to corporate taxpayers  
21 refundable income tax credits under the Nebraska Advantage  
22 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
23 and Development Act.

24 Sec. 7. Section 77-3806, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           77-3806 (1) The tax return shall be filed and the total  
2 amount of the franchise tax shall be due on the fifteenth day of  
3 the third month after the end of the taxable year. No extension  
4 of time to pay the tax shall be granted. If the Tax Commissioner  
5 determines that the amount of tax can be computed from available  
6 information filed by the financial institutions with either state  
7 or federal regulatory agencies, the Tax Commissioner may, by  
8 regulation, waive the requirement for the financial institutions to  
9 file returns.

10           (2) Sections 77-2714 to 77-27,135 relating to  
11 deficiencies, penalties, interest, the collection of delinquent  
12 amounts, and appeal procedures for the tax imposed by section  
13 77-2734.02 shall also apply to the tax imposed by section 77-3802.  
14 If the filing of a return is waived by the Tax Commissioner, the  
15 payment of the tax shall be considered the filing of a return for  
16 purposes of sections 77-2714 to 77-27,135.

17           (3) No refund of the tax imposed by section 77-3802 shall  
18 be allowed unless a claim for such refund is filed within ninety  
19 days of the date on which (a) the tax is due or was paid, whichever  
20 is later, or (b) a change is made to the amount of deposits or  
21 the net financial income of the financial institution by a state or  
22 federal regulatory agency.

23           (4) Any such financial institution shall receive a credit  
24 on the franchise tax as provided under the Community Development  
25 Assistance Act, ~~and~~ section 77-27,222, and section 3 of this act.

1                   Sec. 8. This act becomes operative for all taxable years  
2 beginning or deemed to begin on or after January 1, 2007, under the  
3 Internal Revenue Code of 1986, as amended.

4                   Sec. 9. Original section 77-3806, Reissue Revised  
5 Statutes of Nebraska, and sections 77-908, 77-2701, 77-2715.07,  
6 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement,  
7 2006, are repealed.